

DOCKET FILE COPY ORIGINAL

RECEIVED

LAW OFFICES

COHN AND MARKS

JUL 18 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

JOEL H. LEVY
ROBERT B. JACOBI
ROY R. RUSSO
RONALD A. SIEGEL
LAWRENCE N. COHN
RICHARD A. HELMICK
WAYNE COY, JR.
MARK L. PELESH
J. BRIAN DE BOICE
EDWARD N. LEAVY

SUSAN V. SACHS
JOHN R. PRZYPYSZNY
A. SHEBA CHACKO
KEVIN M. GOLDBERG
MICHAEL A. MCVICKER

SHARON H. BOB, PH.D.
HIGHER EDUCATION
SPECIALIST ON
POLICY AND REGULATION

SUITE 600
1333 NEW HAMPSHIRE AVENUE, N. W.
WASHINGTON, D.C. 20036-1573

TELEPHONE (202) 293-3860
FACSIMILE (202) 293-4827
HOMEPAGE WWW.COHNMARKS.COM

OF COUNSEL
MARCUS COHN
LEONARD H. MARKS
STANLEY S. NEUSTADT
RICHARD M. SCHMIDT, JR.

DIRECT DIAL: (202) 452-4831
INTERNET ADDRESS: Rah@cohnmarks.com

July 18, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: **MM Docket No. 87-268**

Dear Mr. Caton

Submitted on behalf of Alamo Public Telecommunications Council, licensee of noncommercial educational Television Broadcast Station KLRN, San Antonio, Texas, are an original and four copies of its opposition to a petition for reconsideration filed by Trinity Broadcasting Network in the above-captioned proceeding relating to the Commission's proposed Table of Allotments for digital television (DTV).

Very truly yours


Richard A. Helmick

Enclosures

cc w/encl.: Colby M. May, Esq.



Noted and filed
1997
OxY

RECEIVED

JUL 18 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of) MM Docket No. 87-268
)
Advanced Television Systems)
and Their Impact Upon the Existing)
Television Broadcast Service)
)
To: The Commission)

OPPOSITION OF ALAMO PUBLIC TELECOMMUNICATIONS COUNCIL TO TRINITY BROADCASTING NETWORK PETITION FOR RECONSIDERATION

Alamo Public Telecommunications Council, licensee of Television Broadcast Station KLRN, San Antonio, Texas ("Alamo" or "KLRN"), by its attorneys, submits this opposition to the Petition for Reconsideration in the above-captioned proceeding, filed on June 13, 1997, by the Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network ("TBN"). In addition to supporting the contemporaneously-filed Petition for Reconsideration of Sinclair Broadcast Group, Inc., TBN requests assignment of different DTV channels for various full power stations (including KLRN), "in order to permit the continued operation" of many of its translator facilities. In support of such opposition, Alamo sets forth the following.

1. TBN notes that it is the licensee (and permittee) of some 222 translator stations throughout the United States. The list appended to TBN's petition lists 47 such translator facilities seeking "protection" from full-power station DTV channel assignments, and proposes 56 changes in the assignments made by the Commission in the Sixth Report and Order in this docket. The changes proposed by TBN are unsupported and unjustified.

2. The Engineering Statement attached to the TBN Petition for Reconsideration notes that the alternative channel assignments it proposes are derived from the MSTV/NAB computer study dated May 28, 1997. Significantly, TBN confesses that "based on its own studies" (not supplied), the alternative channels will not "displace" any authorized LPTV or TV translator facility. TBN admittedly was not able to verify the assumptions it used, but assures the Commission nevertheless that its proposed "selections" were made "to maintain the highest level of LPTV/translator service". In the text of its Petition (at page 2), TBN asserts, without any support even in its own Engineering Statement, that the proposed substitutions will continue the service replication "scheme" specified in the Sixth Report and Order. It asserts that its proposed substitutions "will not increase instances of interference" (this is said to be "explained" in the Engineering Statement", but it is not) and states that "it is believed" that the proposed substitutions would still allow the current full power NTSC facilities to locate their DTV operations within the three mile radius of their current sites. Significantly, however, TBN does not even attempt to show what, if any, study it made of how the problem it cites for its translator stations might have been addressed by changes in the *translator* station channels rather than changing the Commission's DTV channel assignments for *full service* TV stations.

3. Nowhere does TBN acknowledge the "ripple effect" (or "chain reaction") which proposals such as this and many of the other 219 petitions for reconsideration will generate. The Commission's task was, as TBN acknowledges (but then ignores), "enormous" and "extremely difficult". But what TBN really seeks to upset is the *Commission's* first priority -- the replication during the NTSC-DTV transition of the full-power television service in the United States, in favor

of its *own* priority, the preservation of LPTV/translator service which it acknowledges has been from the start and remains a "secondary" service.

4. Moreover, TBN casually ignores the impact of the proposed reassignments of DTV channels on the licensees it would adversely affect. For Station KLRN in San Antonio, the Commission's assigned DTV Channel 20 is proposed to be changed to DTV Channel 44. (No mention is made of the fact that adjacent DTV Channel 43 is assigned to nearby Austin, Texas.) And no consideration is given by TBN to the increased expense to KLRN of operating -- during the transition -- on a higher UHF frequency. Most importantly, it is naive in the extreme for TBN to expect that its proposed changes can be accomplished in isolation, without any residual effects on and/or from changes proposed by other petitioners.

5. Finally, although TBN was considerate enough to serve the TV stations *directly* affected by its proposed DTV assignment changes, the process by which *indirect* effects may occur from the various petitions for reconsideration cry out for correction from a procedural point of view.^{2/} In many cases, there is no procedural protection for adversely affected licensees, since the proceeding is entirely too complex to permit the usual petition for rule making, Notice of Proposed Rule Making, etc., which ordinarily would attend proposed changes in TV channel allotments. This defect can be cured by dismissal or denial of petitions suggesting particular changes in specific channel assignments, with the remedy, for those who perceive themselves to be aggrieved by

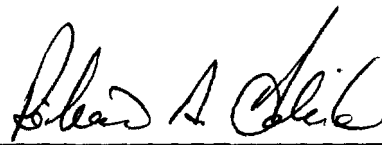
^{2/} For example, Alamo, by chance, learned of a petition for reconsideration of W. Russell Withers, Jr., d/b/a Withers Broadcasting Company of Texas, to allot DTV Channel 9 in lieu of Channel 15 at Victoria, Texas, for use by KAVU-TV; the allotment of Channel 9 to Victoria, Texas would be substantially short-spaced to KLRN's current NTSC operation on Channel 9 at San Antonio and to KLRN's future DTV service as, after the transition period, Alamo intends to operate KLRN's DTV service on Channel 9 rather than Channel 20.

particular allotments, of permission to file *specific* rule making petitions leading to a more complete public disclosure and comment process than can attend the 220 petitions for reconsideration which were clearly intended to elicit additional comment on the *general* propositions adopted by the Commission in the Sixth Report and Order. Even MSTV/NAB, whose engineering study is cited by TBN and indeed represents the foundation of TBN's petition, has suggested an industry coordinating process to address changes in the DTV allotments as may be needed and warranted in future cases, rather than a wholesale revision of the assignments set forth in the Sixth Report and Order based on 220 detailed and inevitably overlapping petitions for reconsideration.

6. Based on the foregoing opposition, Alamo respectfully requests that the Commission dismiss or deny the TBN Petition for Reconsideration, in its entirety or, at least, insofar as it requests a change in the DTV allotment for KLRN.

Respectfully submitted

ALAMO PUBLIC TELECOMMUNICATIONS
COUNCIL

By 
Richard A. Helmick

COHN AND MARKS
Suite 600
1333 New Hampshire Avenue, N.W.
Washington, DC 20036
(202) 293-3860

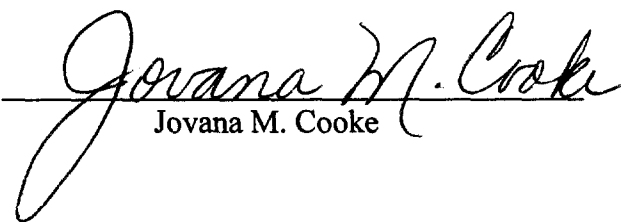
Its Attorneys

July 18, 1997

CERTIFICATE OF SERVICE

I, Jovana M. Cooke, a secretary in the law firm of Cohn and Marks, hereby certify that I have, this 18th day of July, 1997, sent by U.S. mail, postage prepaid, the foregoing **OPPOSITION OF ALAMO PUBLIC TELECOMMUNICATIONS TO TRINITY BROADCASTING NETWORK PETITION FOR RECONSIDERATION** to the following:

Colby M. May, Esq.
Suite 609
1000 Thomas Jefferson Street, N.W.
Washington, D.C. 20007


Jovana M. Cooke